

REMARKS

Claims 1-20 are pending in the application with all claims being retained. As stated in the Office Action, the drawings are objected to for minor informalities.

Regarding the merits, claims 18-20 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as their invention. In addition, claims 1-7 and 9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Boudah patent (U.S. No. 5,143,415) in view of the Kmita patent (U.S. No. 6,729,513). Moreover, claims 8 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Boudah patent and the Kmita patent and further in view of the Aftanas patent (U.S. No. 6,056,176). Also, claims 10-16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Boudah patent and the Kmita patent and further in view of the Ingram patent (U.S. No. 5,423,587).

To recapitulate, claim 1 recites a telescoping roof rack assembly ("assembly") for mounting one or more items to a vehicle having a truck bed. The assembly includes a roof rack section and a truck bed section, which is telescopically coupled to the roof rack section. In this way, the assembly is movable between a retracted position and an extended position. The assembly in the retracted position is utilized for mounting an item to the roof rack section and providing for unobstructed available space within the truck bed. Moreover, the assembly in the extended position extends over the truck bed and is utilized for attaching an item to the roof rack section and/or the truck bed section. Furthermore, the assembly in the extended position also is utilized for storing one or more sufficiently smaller items in the truck bed underneath the truck bed section. It will be appreciated that this construction is beneficial for mounting items of various shapes and sizes to the vehicle.

Specifically, the roof rack section includes a first pair of supports that are fixedly coupled to a roof of the vehicle. Also, the truck bed section includes a second pair of supports, which is telescopically coupled to the first pair of supports, and a pair of pillar members, which extends substantially downwardly from the second pair of supports. Each pillar member has a bottom portion that is slidably coupled to a sidewall of the truck bed.

The Applicants respectfully traverse the above rejections for the reasons provided below.

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(FGT 1697 PA)**The Objections to the Drawings:**

In objecting to the drawings, the Examiner stated that the specification utilizes reference character 64 for designating the supplemental cross member while the drawings utilize reference character 66 for identifying the same. By this Amendment, the specification now utilizes reference character 66 to designate the supplemental cross member in accordance with the original drawings.

The Examiner also objected to the drawings because the specification contains reference character 30'' while the drawings lack the same. However, as indicated in the Office Action, the drawings include reference character 30''. The Applicants submit that reference character 30'' in the specification was a typographical error and should instead be reference character 30'. Accordingly, the specification has been amended to replace reference character 30'' with 30'.

Furthermore, the drawings were objected to because they did not include the reference character 54 as mentioned in the specification. In response, the Applicants submit herewith one (1) replacement sheet of drawings, which includes previously omitted reference character 54, and one (1) annotated sheet of drawings, which shows the newly added reference character encircled.

In view of the above, it is respectfully submitted that the objections to the drawings have been overcome and that the drawings are now in an allowable condition.

The § 112 Claim Rejections:

In rejecting claims 18-20, the Examiner stated that claims 18-20 disclose a method of manufacturing but do not recite any manufacturing elements. Furthermore, the Examiner stated that the claims are instead directed to a method of using the manufactured product. The Applicants respectfully traverse this rejection in view of the arguments provided below.

Claim 18 recites the step of fixedly coupling a first pair of supports to a vehicle roof. As exemplified in the specification (page 12, Figure 7, step 106), the first pair of supports is fixedly attached to the roof via bolts, rivets, or other suitable fasteners. In this regard, this step installs the first pair of supports on the vehicle roof and therefore is part of a manufacturing process. For that reason, the recited step is substantially different from an act of merely using the manufactured assembly as propounded by the Examiner. For example,

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the step of fixedly installing the first pair of supports to the vehicle roof is substantially different than the act of moving the assembly between the retracted position and the extended position and locking the assembly in the desired position.

Claim 18 further recites the step of telescopically coupling a second pair of supports to the first pair of supports. This step is utilized for manufacturing a portion of the assembly and providing a particular use associated therewith. Namely, this step assembles the first pair of supports and the second pair of supports with a telescoping engagement therebetween. In this way, an individual can use the manufactured assembly for extending the second pair of supports from the first pair of supports and move the assembly between the retracted position and the extended position. For this reason, the recited step is substantially different than an act for using the assembly. As exemplified in claim 19 and in the specification (page 11, Figure 7, step 102), this step can be accomplished by inserting the second pair of supports into the first pair of supports, which are sized for receiving the second pair of supports.

Moreover, claim 18 also recites the step of slidably coupling a pair of pillar members to a pair of sidewalls that define a vehicle truck bed. Similar to the above, this step is utilized for manufacturing a portion of the assembly and providing a particular use associated therewith. Specifically, this step installs the pillar members on the sidewalls with a slidable engagement therebetween. In that regard, after the manufacture of the assembly, a user can move the pillar members along a longitudinal axis of the vehicle (as exemplified in Figures 2A-2C) and secure items of various shapes and sizes to the vehicle. Claim 20 recites an example of this step, namely the step of inserting a tongue portion of each pillar member into a channel formed in a respective sidewall (pages 12, Figure 7, step 108). For this reason, the recited step is substantially different than an act for using the assembly.

For the above reasons, it will be appreciated that that claims 18-20 include steps for manufacturing the roof rack assembly. Thus, it is respectfully submitted that the above rejection of claims 18-20 has been overcome.

The § 103(a) Claim Rejections:

Claims 1-7 and 9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Boudah patent in view of the Kmita patent. The Applicants respectfully traverse these rejections for the reasons detailed below.

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The Boudah patent (title; col. 1, lines 31-40) is directed to a disassemblable truck utility rack ("disassemblable rack"), which has the primary objective of being easily disassembled and providing available space in the truck bed for carrying other objects. Another object of the disassemblable rack is to provide a substantially compact construction in disassembled form for conveniently storing the disassembled rack in a truck compartment or behind a truck seat (col. 1, lines 31-40).

On the other hand, claim 1 recites the assembly being movable to the retracted position for providing the available space in the truck bed. In this way, the recited assembly remains both assembled and attached to the vehicle while providing the available space in the truck bed. In other words, the recited assembly does not have to be disassembled and detached from the vehicle for providing available space in the truck bed. This construction is substantially different from the disassemblable rack. In addition, the recited assembly directly opposes the primary objective of the disassemblable rack as the Boudah patent requires the detachment of the rack and the easy disassembly of the same. In this regard, the Boudah patent teaches away from the recited assembly. For these reasons alone, one skilled in the art would not be motivated to modify the Boudah patent as suggested by the Examiner.

The Kmita patent is directed to a telescopically extendable carrier for use on a vehicle roof. The carrier includes an extendable subassembly, which is movable between a retracted position and an extended position for carrying elongated items (Figure 2; col. 2, lines 56-61). The carrier in the retracted position does not extend outwardly of the side rails (Figures 1-2; col. 1, lines 51-55). This compact construction is utilized for providing the appearance of an otherwise conventional carrier with an aesthetically pleasing, aerodynamically efficient structure (col. 1, lines 51-55; col. 4, lines 6-21).

However, claim 1 recites the truck bed section including the second pair of supports, which are telescopically coupled to the roof rack section, and the pair of pillar members, which extend from the second pair of supports and are slidably coupled to the sidewalls of the truck bed. In this way, the recited assembly in the retracted position has at least the pillar members extending between the vehicle roof and the sidewalls of the truck bed. This construction is substantially different from the carrier disclosed in the Kmita patent. In fact, the recited assembly necessarily fails to accomplish an objective of the carrier as the recited

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assembly lacks the appearance of an otherwise conventional carrier. For that reason, the Kmita patent teaches away from the proposed modification. Thus, the Applicants respectfully submit that no motivation exists to make the proposed modification of the Kmita patent.

In the Office Action, the Examiner contended that the motivation to make the proposed modification is to utilize the area above the cab as desired. However, for the reasons detailed above, one skilled in the art would not be motivated to make the proposed combination. Specifically, both the Boudah patent and the Kmita patent teach away from making the proposed modification. Therefore, the Applicants respectfully submit that impermissible hindsight gleaned only from the Applicants' disclosure has been relied upon for making the proposed modifications.

The Applicants further submit that even if the combination were made as proposed, this combination still would not teach or suggest the roof rack section and the truck bed section being telescopically coupled to the roof rack section. As stated in the Office Action, the Boudah patent does not teach or suggest the roof rack section because conventional truck bed racks typically are not fixedly attached to the vehicle. In addition, the Kmita patent does not teach or suggest the truck bed section having pillar members that are slidably coupled to the sidewalls of the truck bed. For these reasons, a combination of the cited references would still not teach the telescopic engagement between the roof rack section and the truck bed section.

In that vein, the proposed combination would not teach or suggest the assembly being movable between the retracted position and the extended position and thus the claimed features associated therewith. Namely, the proposed combination would not teach or suggest the assembly being movable to the retracted position for providing unobstructed use of the truck bed. Similarly, the proposed combination would not teach or suggest the assembly being movable to the extended position for extending substantially across the truck bed and mounting an elongated item thereto.

For the above reasons and others, it is respectfully submitted that claims 1-8 and 9 are nonobvious and allowable notwithstanding the Boudah patent and the Kmita patent.

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Claims 8 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Boudah patent and the Kmita patent as applied to claims 1-7 and 9 and further in view of the Aftanas patent. The Applicants traverse these rejections for the arguments provided in support of claims 1-7 and 9. Additionally, by this Amendment, claims 8 and 17 recite the supplemental cross members having opposing end portions with protrusions extending therefrom for insertion into respective holes in the second pair of supports and/or the intermediate pair of supports. It will be appreciated that these limitations are not taught or suggested by the cited art. Moreover, the Applicants submit that the piecemeal reconstruction utilizing unrelated portions of the multiple cited references further demonstrates that the claimed invention is nonobvious. For these additional reasons, the Applicants respectfully submit that claims 8 and 17 are nonobvious and allowable notwithstanding the Boudah patent, the Kmita patent, and the Aftanas patent.

Claims 10-16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Boudah patent and the Kmita patent as applied to claims 1-7 and 9 above and further in view of the Ingram patent. The Applicants respectfully traverse these rejections for the same reasons provided in support of claims 1-7 and 9. Also, the Applicants submit that the piecemeal reconstruction utilizing unrelated portions of the multiple cited references further demonstrates that the claimed invention is nonobvious. For these and other reasons, it is respectfully submitted that claims 10-16 are nonobvious and allowable notwithstanding the Boudah patent, the Kmita patent, and the Ingram patent.

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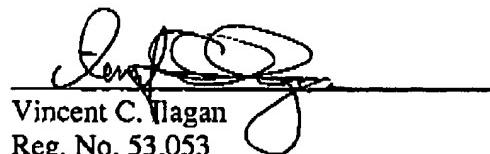
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(FGT 1697 PA)**Conclusion:**

In view of the foregoing amendments and remarks, Applicant submits that all of the claims remaining in the case are allowable. The Examiner is invited to telephone the Applicant's undersigned attorney at (248) 223-9500, if any unresolved matters remain.

Respectfully submitted,

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